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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------|------------------|
| 09/910,414 | 07/20/2001 | Eric P Berg | NIGA,003 | 9647 |
| 7590 | 06/16/2006 | | EXAMINER | |
| Mark R Wisner WISNER & ASSOCIATES Suite 400 1177 West Loop South Houston, TX 77027-9012 | | | BANGACHON, WILLIAM L | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2612 | |
| | | | DATE MAILED: 06/16/2006 | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/910,414 | BERG, ERIC P | |
| | Examiner | Art Unit | |
| | William L. Bangachon | 2612 | |

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 30 March 2006.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-6 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-6 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 20 July 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____

4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .

5) Notice of Informal Patent Application (PTO-152)

6) Other: ____ .

DETAILED ACTION

Drawings

1. There are no drawing corrections filed. Accordingly, the objection to the drawings is repeated in this Office action.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “**paging transmitter and receiver**” recited in claims 5 and 6, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement-drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the Examiner does not accept the changes, the

applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Response to Arguments

3. Applicant's arguments filed 3/30/2006 have been fully considered but they are not persuasive.

In response to applicant's argument that there is no suggestion to combine the references [page 5, 2nd paragraph – page 7, 4th paragraph], the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Warwick does not disclose a paging receiver for receiving control signals. Moughanni, in the same field of endeavor (remote control systems), is relied upon to teach of a remote control using a paging system at a remote location {Moughanni, col. 2, lines 37-46; paragraph bridging cols. 5 and 6}. Moughanni suggests that it is beneficial to use paging systems for remote control because it provides a person at a distance away from his home, an immediate link to his home or appliances, to turn the air-conditioner or heater to ON/OFF {Moughanni, col. 1, lines 63+; col. 2, lines 49-63}. It would have been obvious to one of ordinary skill in the art, at the time of applicant's invention, to include a paging device in the radio link of Warwick, because a

pager device, as taught by Moughanni, provides an immediate link for controlling the electricity meters of Warwick at a distance away from his home.

In response to applicant's arguments against the references individually [page 5, 1st and 3rd paragraph; page 7, 1st paragraph], one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, Warwick teaches of a processor (63, 83) for processing said control signals from said receiver (as taught by Moughanni) to open said switching circuit (26) to interrupt electrical power transmission between said input electrical supply source and said output electrical outlet {Warwick, col. 5, lines 49-55; col. 6, lines 40-43}.

Double Patenting

4. Applicant's arguments with respect to the provisional rejection of claims 1-5 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-4 of copending Application No. 10/709,442 is persuasive (i.e. copending application is abandoned) and therefore withdrawn.

5. Claims 1, 3 and 5 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-3, 12-13, 22-23 and 31-32 of copending Application No. 09/672,162. Although the conflicting claims are not identical, they are not patentably distinct from each other because although the

claims in '162' do not disclose a electrical power meter, the body of the claims are directed to the same subject matter as the instant claims. As such, claims 1-2 or 12 or 22 recites the limitations of claim 1 in the instant claims. Claim 3 or 13 or 23 recites the limitations of claim 3. and claims 31 or 32 recite the limitation of claim 5.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1 and 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over USP 5,668,538 {Warwick} in view of USP 5,608,655 {Moughanni et al}.

In claims 1 and 6, Warwick teach of a system for remote disconnection and connection for electrical power meters shown in figures 1a-n to 5a-n, having an input electrical supply source (22, 23) and an output electrical outlet (24, 25) {paragraph bridging cols. 1 and 2; col. 4, lines 15-19}, said system comprising;

a switching circuit (26) connected between said input electrical supply source and said output electrical outlet {col. 4, lines 15-19};

a processor (63, 83) for processing said control signals from said receiver (62, 82) to open said switching circuit (26) to interrupt electrical power transmission between said input electrical supply source and said output electrical outlet {col. 5, lines 49-55; col. 6, lines 40-43}.

Warwick does not disclose "**a radio frequency receiver for receiving wireless radio frequency control signals from a remote source**". Moughanni, in the same field of endeavor (remote control systems), is relied upon to teach of a remote control using a paging system (10) at a remote location {Moughanni, col. 2, lines 37-46; paragraph bridging cols. 5 and 6} comprising a radio frequency receiver (Fig. 1, 12) for receiving wireless radio frequency control signals from a paging transmitter at remote source {Moughanni, col. 3, line 43-col. 4, line 20+}. Moughanni suggests that it is beneficial to use paging systems for remote control because **it provides a person at a distance away from his home (i.e. remote source), an immediate link to his home or appliances, to turn the air-conditioner or heater to ON/OFF** {Moughanni, col. 1, lines 63+; col. 2, lines 49-63}. It would have been obvious to one of ordinary skill in the art, at the time of applicant's invention, to include a paging device in the radio link of

Warwick, because a pager device, as taught by Moughanni, provides an immediate link for controlling the electricity meters of Warwick at a distance away from his home.

In claim 3, said system further including a processor (83) for decoding the signal received from said radio frequency receiver for said processor {col. 6, lines 26+}.

In claim 4, said switching circuit (26), said processor (63, 83) and said receiver are integrally mounted within the electrical power meter as shown in the figures.

Claim 5 recites a method for practicing the system of claims 1-3 and therefore rejected for the same reasons.

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

USP 6,380,852 (Hartman et al) is cited in that it teaches of a power shut-off device that operates in response to prespecified remote-conditions {see whole document}.

USP 6,374,101 (Gelbien) is cited in that it teaches of a pager-based controller {see whole document}.

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

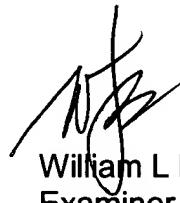
Office Contact Information

11. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to William L. Bangachon whose telephone number is **(571)-272-3065**. The Examiner can normally be reached on 4/4/1010.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Wendy R. Garber can be reached on **(571)-272-3068**. The fax phone numbers for the organization where this application or proceeding is assigned is **5(571) 273-830000** for regular and After Final formal communications. The Examiner's fax number is **(571)-273-3065** for informal communications.

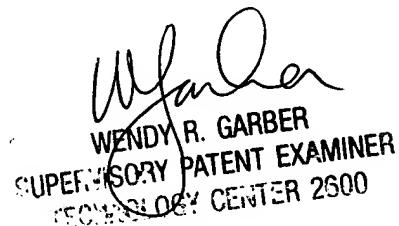
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866-217-9197** (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-6071.



William L Bangachon
Examiner
Art Unit 2612

June 12, 2006



WENDY R. GARBER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600